

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD S. MILLER,

Plaintiff,

v.

EL DORADO COUNTY JAIL,

Defendants.

No. 2:23-cv-00666-DAD-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff, acting pro se, filed this civil rights action on April 10, 2023, when he was incarcerated at the El Dorado County Jail. ECF No. 1. On January 11, 2024, the district judge issued an order dismissing the action for failure to prosecute, and the case was closed. ECF No. 27. On January 29, 2024, the order of dismissal was mailed to plaintiff at his address on record, but returned as undeliverable.

On May 31, 2024, plaintiff filed a notice of change of address and a motion seeking relief from the order of dismissal. ECF Nos. 29 & 30. Plaintiff states that he was unable to prosecute this case without assistance, but he now has help litigating this action, including filing an amended complaint. ECF No. 30.

Plaintiff has demonstrated inadvertence and excusable neglect justifying relief from the final judgment under Federal Rule of Civil Procedure 60(b)(1).

For the foregoing reasons, IT IS HEREBY RECOMMENDED that:

1. Plaintiff's motion for relief (ECF No. 30) be granted and this case reopened; and
2. Plaintiff be directed to file an amended complaint no later than thirty (30) days from the date of the order reopening the case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: August 23, 2024


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE